

**KANSAS DENTAL BOARD MEETING MINUTES
FRIDAY, AUGUST 16, 2019, 9:00 A.M.
LANDON STATE OFFICE BUILDING, 5th FLOOR
900 SW JACKSON, ROOM 509
TOPEKA, KANSAS 66612**

A. Call to Order / Approval of the Agenda.

Call to Order: Mark Herzog, D.D.S., President, called the Board meeting to order at 9:00 a.m.

Members Present at Call to Order: Mark Herzog, D.D.S., President; Jarrod Jones, D.D.S., Vice-President; Stephen Zeller, D.D.S., Secretary; Stanley Wint, D.D.S.; Daniel Thomas, D.D.S.; Jackie Leakey, R.D.H.; Jill Harding, R.D.H.; and James Kilmartin, Public Member.

Members Arriving After Call to Order: None.

Members Absent: None.

Staff Present: Randy Forbes, Attorney for the Board; Lane Hemsley, Executive Director; Charity Carlat, Senior Administrative Specialist; and Vanda Collins, Senior Administrative Assistant.

Attendees: Daniel F. Tylka, D.M.D.; Wanda Droge (Delta Dental); Kevin Robertson (KDA); Maggie Smet, R.D.H.; Pam Smith, R.D.H.; Kevin Cassidy, D.D.S.; Trey Lawrence (American Association of Orthodontists); and Renae Kennedy, R.D.H.

Approval of the Agenda: It was moved and seconded to approve the agenda. The motion passed.

B. Minutes of April 12, 2019.

It was moved and seconded to approve the minutes of April 12, 2019. The motion passed unanimously.

C. Regulatory Amendment Updates: Randy Forbes.

1. Overview of Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.* Randy Forbes provided the Board with the procedure to adopt regulations both before and after July 2018, when the Act was amended to require approval from the Division of Budget.

2. **K.A.R. 71-2-2. Branches of dentistry.** The Board previously approved an amendment to add dental anesthesiology to the list of recognized dental specialties in Kansas. The amendment has been approved by the Division of Budget and Department of Administration. The Board is currently waiting for Attorney General approval.

3. **K.A.R. 71-2-3. Committee for specialists' examination.** The Board previously approved the revocation of this regulation. After discussion, it was moved and seconded to continue working on the revocation. The motion passed unanimously.

4. **K.A.R. 71-5-11. Level II permit: parenteral conscious sedation.** The Board previously approved an amendment to add capnography to this regulation. The Legislature's Joint Committee on Administrative Rules and Regulations (JCARR) has approved the amendment. The amendment has been set for public hearing at the Board's meeting on Friday, November 8, 2019.

5. **K.A.R. 71-5-12. Level III permit: deep sedation and general anesthesia.** The Level III permit regulation does not need a specific amendment to add capnography because the capnography amendment in the Level II permit regulation noted immediately above will be adopted by reference. In turn, the Level III permit regulation will include a requirement for capnography.

6. **K.A.R. 71-8-8. Information for patients.** The Board previously approved an amendment to the documentation required to be supplied post-treatment. The Legislature's JCARR has approved the amendment. The amendment has been set for public hearing at the Board's meeting on Friday, November 8, 2019.

D. Specialty Licensing Examination Discussion.

As a corollary to the discussion on K.A.R. 71-2-3 (Committee for specialists' examination), the Board continued its review of the process for issuing specialty licenses. After discussion, the Board concluded that it will maintain its specialty committees. The specialty committees will give the Board's staff the final written approval to issue a specialty license.

E. Request for Approval of Level I Sedation Permit Course: Brian McGue, D.D.S.

Under cover letter dated April 3, 2019, Brian McGue, D.D.S., Course Director of Stay in the Box Sedation, requested Board approval of a Level I Sedation Permit Course. After review and discussion, it was moved and seconded to approve the Level I Sedation Permit course. The motion passed unanimously.

F. Request for Approval of Level II Sedation Permit Course: John Wayland, D.D.S.

Under letter dated March 28, 2019, John Wayland, D.D.S., Course Director of Western Surgical and Sedation, requested Board approval of a Level II Sedation Permit Course. After review and discussion, it was moved and seconded to approve the Level II Sedation Permit Course. The motion passed unanimously.

G. Request for Approval of CRDTS Dental Hygiene Exam Review Committee Nominee.

The Board received a request written on behalf of Kelly Anderson, R.D.H., to be considered a potential nominee for the CRDTS Dental Hygiene Exam Review Committee. Current Board member Jackie Leakey, R.D.H., was already recommended as a Board nominee. After discussion, the Board chose to thank Ms. Anderson for the request and sponsor Ms. Leakey as the Board's nominee. Jill Harding, R.D.H., noted that CRDTS had formally voted on the recommendation and approved Ms. Leakey's appointment to the Dental Hygiene Exam Review Committee.

H. ADA Petition Regarding Direct to Consumer Orthodontic Aligners.

The Board welcomed Kevin Cassidy, D.D.S., to provide an overview of the process for direct to consumer orthodontic aligners. Dr. Cassidy is a licensed orthodontist located in Topeka, Kansas. Dr. Cassidy provided a detailed overview of various online only and omnichannel business models. Many companies, including CVS and Walgreens, are beginning to offer this type of service in collaboration with one or more direct to consumer orthodontic aligner companies. Dr. Cassidy asked the Board to consider whether the applicable standard of care for a licensed orthodontist is the same or substantially similar to a direct to consumer orthodontic aligner company. Dr. Cassidy further asked the Board to review whether each of these companies is directly engaged in the practice of dentistry.

The Board also welcomed Kevin Robertson of the Kansas Dental Association (KDA). Mr. Robertson indicates that the American Dental Association (ADA) is working in collaboration with the American Association of Orthodontists (AAO) on this issue. Likewise, Mr. Robertson asked the Board to consider whether direct to consumer orthodontic aligners constitutes teledentistry, which Kansas does not recognize, or mobile dentistry, which requires a permit in Kansas.

After extensive discussion, the Board thanked Dr. Cassidy and Mr. Robertson for the input and subsequently referred these matters to the Board's Investigative Committee for further evaluation.

I. Public Forum.

The Board welcomed members of the public to speak to the Board. The Board recognized Daniel Tylka, D.M.D., a new licensee and dentist in Kansas. Dr. Tylka has moved to Kansas to be closer to family and thanked the Board's staff for licensing efficiency during his recent licensing process.

J. President's Report: Dr. Herzog.

1. Appointment Process. Dr. Herzog reported that the Board is still waiting for an official appointment from the Governor's Office to replace Dr. Squire. The Governor's Office has not contacted the Board office about the appointment yet.

**K. Investigations Report: Dr. Herzog / Lane Hemsley.
Inspections Report: Dr. Johnson.**

Mark Herzog, D.D.S., and Lane Hemsley presented the status of the Investigative Committee cases from January 1, 2019, to July 16, 2019.

Lane Hemsley reported that the Board and Dr. Johnson had finalized a 5-year contract for investigation and inspection services. The Kansas Department of Administration, Office of Procurement and Contracts, oversaw the bidding process and finalized all contract details in accordance with K.S.A. 75-37,132.

L. Executive Report: Lane Hemsley.

1. Budget. An update was provided on the approved budget for FY 2020 (July 1, 2019 – June 30, 2020). The Board’s budget is substantially similar to FY 2019 (July 1, 2018 – June 30, 2019).

2. Licensee and Specialty Licensee Report. License and specialty license reports were provided for March 1, 2019, to July 15, 2019.

M. New Business / Adjournment.

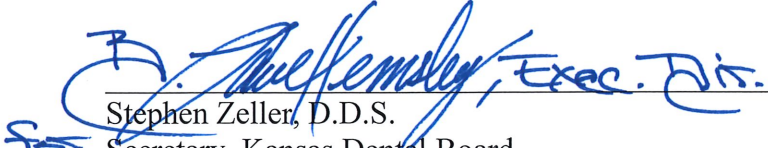
1. Selection of Board Meeting Dates for 2020.

- a. Friday, January 17, 2020.
- b. Friday, April 24, 2020.
- c. Friday, August 14, 2020.
- d. Friday, November 13, 2020.

2. Teeth Bling Services. The Board continued its discussion on the teeth bling services offered within one or more Kansas tattoo businesses. In particular, the Board discussed the services currently offered by Ms. Madison Rios at Patriot Tattooing in Junction City, Kansas. Ms. Rios uses “MADDS” as a digital handle in her social media and internet advertisements. After consultation with Dr. Johnson, who performed an inspection of the teeth bling services, and Randy Forbes, the Board determined that the services currently offered at Patriot Tattooing do not constitute the practice of dentistry or dental hygiene. After further discussion, it was moved and seconded that Randy Forbes write a letter to Ms. Rios asking her not to utilize the capital letters of “DDS” in her advertisements. The motion passed unanimously.

Adjournment: It was moved and seconded to adjourn at 11:40 a.m. The motion passed. The meeting was adjourned.

APPROVED BY:


Stephen Zeller, D.D.S.
Secretary, Kansas Dental Board

11/8/2019
Date